



**ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF INVESTIGATION**

SA 16-250

INTERVIEW REPORT

CASE NAME: MIGUEL SILICEO & [REDACTED]

CLASSIFICATION: OFFICER MISCONDUCT

INTERVIEW OF: EDWARD LEMOINE, POLICE OFFICER
FULLERTON POLICE DEPARTMENT

PRESENT: RICHARD AYERS, INVESTIGATOR
ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

DATE AND TIME: 03/23/2016 1937 HOURS

LOCATION: FULLERTON POLICE DEPARTMENT

On March 23, 2016, at approximately 1937 hours, Orange County District Attorney Investigator RICHARD AYERS and I conducted an audio digital recorded interview of Fullerton Police (FPD) Officer EDWARD LEMOINE regarding the officer misconduct allegations related to FPD Officers MIGUEL SILICEO and [REDACTED]. The following is a summary of the interview.

LEMOINE said he was providing a free and voluntary statement. No one from his agency had ordered him to give a statement. He did not feel compelled to give a statement because the district attorney's office was conducting the investigation.

I asked LEMOINE about the incident which occurred on July 9, 2015 in the 100 block of West Amerige Avenue involving FPD Officer [REDACTED], Officer SILICEO, Corporal DAVID BECERRA, Corporal MICHAEL BOVA and LEMOINE. LEMOINE said he did not remember much about the incident. He remembered there was a "scuffle" with a pair of "drunk brothers". He did not prepare any reports regarding the incident.

Investigator: D. MELNYK #251

David F. Melnyk

Approved By:

Stan Berry

Date of Report: 04/08/2016

Date: 04/11/2016

At the time, LEMOINE was assigned to Graveyard Shift, from 1730 to 0600 hours, on Monday, Tuesday and Wednesday nights. LEMOINE had been a police officer for 26 years. He left the FPD for a year and went to the Burlington Northern Santa Fe (BNSF) Railroad Police Department. The remainder of his experience was with the FPD. He was assigned to Zone 3 on the east side of Fullerton.

LEMOINE was at the incident location to have tacos with the other officers. When it was quiet they would gather at Felix's Tacos trailer with the Mid-Watch officers around 0200 hours. LEMOINE said there was a group of individuals who were "chipping." He was talking with BOVA, so he was not paying much attention to them. He remembered a scuffle with [REDACTED] and SILICEO to the east of them near a tree planter. He said it was another "drunk arrest" in the hundreds of drunk arrests they make in the area. LEMOINE said they deal with "drunk idiots all the time" in the area. The area was in the downtown area. To the south there was a popular bar. To the north was a series of bars which back up to Amerige Avenue and face Wishire Avenue. The area is generally congested with intoxicated people. If things were quiet with the bar crowd there, they would go to have tacos and keep an eye on the activity. They try to make sure people are getting to their cars and not getting into fights. There were a lot of fights in the area. Usually, Monday through Wednesday was not as bad as the weekend.

I showed LEMOINE his Body Worn Camera (BWC) video of the incident. He remembered the subjects being sent away initially before the BWC's were activated because they were "chipping" at the officers. He remembered one of the subjects saying to BOVA it looked like he could eat a "bunch of tacos." Someone told Felix to not serve the subjects because they were going to start something. Something was then said causing [REDACTED] to go over

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to the subjects after they had moved to the east. LEMOINE activated his camera when he saw [REDACTED] "going hands on" and he started moving in that direction.

LEMOINE said there were four to six subjects in the group. In looking at the video, there were only four, but he thought there may have been others who were not on the video or had split off before the incident. His impression of the subjects was they were "drunk idiots." He based his opinion on the way they were talking and "chipping." LEMOINE said most normal people do not "poke fun" at police officers. He found most people were friendly, even when intoxicated. He said there were also people with "a chip on their shoulder" who were "popping off" and needed to be told to leave before something happened.

The incident initially started by the taco truck and the subjects moved away. He did not know why [REDACTED] then approached the subjects. He did not remember what was said, but something drew [REDACTED] over. When LEMOINE saw [REDACTED] "going hands on" he moved in the direction of [REDACTED] in case things got out of control. LEMOINE did not know any of the subjects involved. LEMOINE thought the subjects were arrested for Drunk in Public. When I asked, LEMOINE said 415.1 PC was the charge for challenging and words inciting a fight.

LEMOINE did not talk to [REDACTED] or SILICIO about the incident and did not read the police reports. Upon reviewing his BWC video, he thought SILICEO may have pushed LUIS SERRANO DIAZ because he had gotten too close to [REDACTED]. As drunk as the subjects were, it would not have taken much for DIAZ to "go flying" like he did. He found nothing out of the ordinary in the incident. He knew they went off duty at 0300 hours. They would have wanted to get into the station, book the prisoners and write their reports. LEMOINE did not go to the jail following the arrest.

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LEMOINE said sometimes our perceptions are different from what is captured on the BWC. There is only one view captured and something may be going on out of view. He described the BWCs as a “blessing” in some ways, but said they also have their shortcomings. The shortcomings include not capturing the entire view of an incident and something may not be captured with the audio. One of the difficulties was remembering the shortcomings and articulating to the best of your ability in a report. He said some officers may “fall short” when they do that.

LEMOINE said he was one of the first officers to get the BWC before they went department wide in approximately November of 2014. He thought the rest of the department started getting them in January of 2015. LEMOINE understood there was a policy following the KELLY THOMAS case which prevented officers from viewing their BWC videos without the approval of a supervisor.

LEMOINE said he was required to activate his BWC whenever he had a contact. In a situation like this one, it could have gone fine without any negative interaction and he would not have had to activate the BWC. When he saw something was happening, he turned it on. The video jumped back 30 seconds and then the audio picked up. He would normally activate his BWC on radio calls prior to arriving at the scene.

LEMOINE had an application on his cellular telephone which allowed him to pull up his videos throughout the shift. The application had a Bluetooth link to the camera. He would log each video with the call number, the type of call and the category. If it was a standard radio call the video went into the storage area which was “dumped” after a period of time. Investigations or major incidents were retained longer. He would categorize his videos through the night. At the end of the shift the BWC was removed and put into a charging base where

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anything on the BWC was downloaded into the server. The battery would be charged for the next shift and nothing would be left on the BWC.

LEMOINE demonstrated the application for us. The application had the ability to replay the video but it would be of low quality and display in bursts similar to a surveillance camera system. He said he would not trust the video on his telephone in order to write a report.

LEMOINE had never asked to review any of his BWC videos. Some of his videos had been used in Briefing Training in order to discuss incidents. If he had a critical incident he would want to review his BWC video.

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